

On May 5, 2016, Respondent filed his Answer to Petitioner's Amended Petition for Writ of Habeas Corpus. ECF No. 40. Petitioner's reply is currently due on June 30.

Petitioner requests additional time in light of substantial new responsibilities counsel has been appointed to undertake. On May 27, 2016, this Court appointed the Federal Community Defender Office to serve as co-counsel on behalf of capital habeas petitioner John Balentine in preparation for an evidentiary hearing scheduled for September 7, 2016. *See Balentine v. Davis*, 2:03-CV-39, ECF No. 198. Based on their qualifications and experience, Mr. Brewer's attorneys were assigned to serve as counsel for Mr. Balentine.

As a result, Petitioner's counsel must divert significant manpower and resources in order to perform their pressing duties in Mr. Balentine's case. Before Mr. Balentine's hearing, counsel must conduct a thorough investigation of all previous stages of litigation, including poring over the trial record, investigating direct appeal and state habeas proceedings, reviewing the groundwork laid by federal habeas co-counsel, and marshaling resources to direct any new avenues for investigation. In addition, counsel must become acquainted with the knotty issues of procedural default presented by Mr. Balentine's case and prepare for a novel

evidentiary hearing. Following the Balentine hearing, counsel's workload would subside and counsel could speedily complete briefing in Petitioner's case.

Counsel has continued work apace on Petitioner's Reply. The complexity of the arguments at issue, compounded by the diversion of resources caused by counsel's recent appointment to Mr. Balentine's case, mean that counsel needs additional time to adequately research and prepare Petitioner's Reply.

In light of these responsibilities, counsel requests an additional 90 days to complete briefing in Mr. Brewer's case.

Undersigned counsel has discussed this request with counsel for Respondents, who have indicated they are not opposed to a thirty day extension, but oppose anything longer.

WHEREFORE, Petitioner respectfully requests an additional ninety (90) days to file his Reply to Respondent's Answer.

Respectfully submitted,

/s/ Philip Alan Wischkaemper
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Dated: June 29, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused the foregoing to be served on the following person by ECF filing:

Erich Dryden
Assistant Attorney General
Office of the Attorney General of Texas
Post Office Box 12548
Austin, Texas 78711-2548

/s/ Peter Walker
Peter Walker

Dated: June 29, 2016

CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred with counsel for Respondent, Assistant Attorney General Erich Dryden, who indicated he does not oppose a thirty day extension, but is opposed to any longer extension.

/s/ Peter Walker
Peter Walker

Dated: June 29, 2016